

## **REMARKS/ARGUMENTS**

With this Preliminary Amendment, Applicants cancel claims 1-5 and 17-18, amend claims 6, 12, 19-21, 30, 32, 35 and 40-42, and present new claims 47-55. Prior to the initial examination of this case, the Examiner is requested to enter the amendments reflected herein, and to consider the accompanying remarks.

### **I. CLAIM CANCELLATIONS**

With this Preliminary Amendment, Applicants cancel a plurality of claims, including claim 1. Applicants cancel claim 1 to avoid reading on devices and systems that merely sense air temperature fluctuations proximate to the breathing orifices as an indication of respiration, such as the SLEEPSTRIP™ device cited in the accompanying Information Disclosure Statement and form PTO 1449.

### **II. CLAIM AMENDMENTS**

With this Preliminary Amendment, Applicants amend claim 6 and 12 to be in independent form. It is noted that each of these claims already contained the limitations by virtue of their previous dependency from claim 1.

Applicants amend claims 19-21, 30, 32, 40 and 41 to remove the “adapted to” phraseology. Applicants amend claim 35 to ensure that having only one element from each lists is needed to infringe.

Applicants amend claim 42 to correct its dependency.

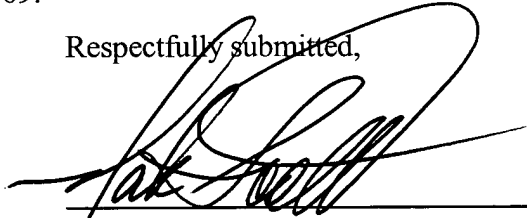
### **III. NEW CLAIMS**

With this Preliminary Amendment, Applicants add new claims 46-55. No new matter is added.

#### IV. CONCLUSION

Applicants respectfully request that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required. Any fees required (including fees for net addition of claims) are hereby authorized to be charged to Conley Rose P.C.'s Deposit Account No. 03-2769.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark E. Scott', is written over a horizontal line.

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